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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FCP/167120

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 06, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Community Care Inc. in regard to Medical Assistance, a hearing was held on October 01, 2015, at West Bend, Wisconsin.

The issue for determination is whether the care management organization (CMO) has demonstrated that it correctly reduced Petitioner's participation in a prevocational program.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Michelle Ellenbecker  
Community Care Inc.  
205 Bishops Way  
Brookfield, WI 53005

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Washington County.
2. Petitioner filed this appeal to contest a reduction of hours of his prevocational services participation through the Family Care Program (FCP). The reductions from 24 to 18 hours per week.
3. Petitioner has been attending prevocational services through The Threshold Incorporated ([REDACTED]) since June 2001. He enrolled in the Family Care Program in 2008 and participation at [REDACTED] program has continued since that time. The FCP has attempted to transition Petitioner from [REDACTED] but without Petitioner's willingness to participate in any other employment except [REDACTED].

4. Again, Petitioner has been enrolled in the Family Care program since 2008. In May of 2014 his functional screen level changed from nursing home to non-nursing home level of care though it was changed back to a nursing home level of care in January 2015. In an effort to transition Petitioner, a DVR application was submitted but Petitioner elected to close his DVR case. He was also asked to participate in a Pre-vocational Community Awareness Program at [REDACTED]. He successfully completed the 6 week course but declined to reopen his DVR file and will not work anywhere but [REDACTED]. Through DVR he shadowed at 2 other jobs but refused a trial work period at either.
5. Petitioner is 33 years of age (DOB [REDACTED]). His diagnosis includes Asperger's. He lives in the community with his parents.
6. Petitioner is a productive worker at [REDACTED]. He is an exemplary employee. He masters whatever new job he is given – groundkeeper, material handler, driving a forklift, participating on the employer transportation committee and working extra hours on weekends. He has a driver's license and drives himself to work. He volunteers with the Slinger High School basketball program.

### DISCUSSION

A reduction in services in the Family Care Program is an action concerning which the Wisconsin Administrative Code delegates hearing authority to the Division of Hearings and Appeals. See *Wis. Admin. Code, § DHS 10.55(1)(e)*; also see *Wis. Stats., §46.287*.

The Family Care Program, which is supervised by the Department of Health and Family Services, is designed to provide appropriate long-term care services for elderly or disabled adults. *Medicaid Eligibility Handbook (MEH)*, §29.1. It is authorized under Wisconsin Statutes, §46.286, and is described comprehensively in the *Wisconsin Administrative Code at Chapter DHS 10*. The program is operated and administered in each county by a Care Management Organization (CMO), which in this case is Community Care, Inc. Though Family Care enrollees are full partners in the assessment of needs and strengths and in the development of care plans those plans are subject to the general requirements and limitations outlined for the program, including the requirement that a service be cost-effective compared to alternative services or supports that could meet the same needs and achieve similar outcomes. *Wis. Admin. Code, §§ DHS 10.44(2)(e) & (f)*. Medical assistance and its subprograms are meant to provide only basic and necessary health care.

In the Family Care Program (FCP), the CMO must develop an Individual Service Plan (ISP) in partnership with the client. *Wis. Admin. Code, §DHS 10.44(2)(f)*. The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the CMO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. *Wis. Admin. Code, §DHS 10.44(2)(f)*; *DHS booklet, Being a Full Partner in Family Care, page 9*.

Further, the FCP maintains that it is required to assist an individual with integration into the community. See, e.g., *Standard Family Care Contract (Contract)*, at Preamble at page 1, found at <https://www.dhs.wisconsin.gov/familycare/mcos/cy2015mcocontract.pdf> and the Department of Health Services Technical Assistance Series OFCE Memo # 10-04. Finally, prevocational services are not unlimited. They can be renewed every six months but are expected to provide progress to paid employment. See, again, *Contract*, at Addendum X at web site noted above.

I am not reversing the FCP reduction in Petitioner's [REDACTED] program. Though change presents a significant challenge for Petitioner; the FCP has only asked that Petitioner try to transition to other employment. It reduced hours, but did not discontinue Petitioner's [REDACTED] program, recognizing the transition could take some time. It has offered counseling and psychiatric help to assist with managing the transition. Petitioner is clearly a skilled worker. It is noted that that he adapted to a change in locations by [REDACTED] by practicing

driving the new route to work until he was comfortable with it. Here Petitioner and his parents have refused to attempt the transition. The agency correctly seeks to maximize Petitioner's potential and employment opportunities in the community

### **CONCLUSIONS OF LAW**

That the FCP correctly reduced Petitioner's prevocational services in an effort to transition Petitioner to paid employment in the community.

**THEREFORE, it is**

### **ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

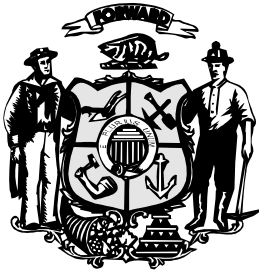
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 2nd day of November, 2015

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on November 2, 2015.

Community Care Inc.  
Office of Family Care Expansion  
Health Care Access and Accountability